

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HOUSING RIGHTS INITIATIVE,

Plaintiff,

-against-

COMPASS, INC., et al.,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 9/22/2023

21-CV-2221 (SHS) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

The Court has received and reviewed the Motion to Cancel Certificate of Default (Dkt. 688), Answer (Dkt. 689), Motion to Dismiss for Wrong Service Address (Mtn. to Dismiss) (Dkt. 691), and Motion for Pro Se Representation (Dkt. 682), all filed on behalf of defendant Columbus NY Real Estate Inc. (Columbus) by Frederico Ziotto as its principal. The record reflects that Columbus was served with process on April 19, 2021, through the Secretary of State (Dkt. 46), and that a Certificate of Default was issued as to Columbus on March 21, 2022. (Dkt. 505.) Mr. Ziotto states that the summons and complaint in this matter were served on an incorrect address on West 57th Street, instead of the company's current address on West 85th Street, and consequently that he was unaware of this lawsuit until recently. *See* Mtn. to Dismiss at 1.

Mr. Ziotto is advised that when process is served on the Secretary of State, the papers are forwarded to the address that the corporation has on file with the New York Department of State, Division of Corporations. As of today, according to the online database maintained by the Division of Corporations, *see* <https://apps.dos.ny.gov/publicInquiry/>, the only address that Columbus has on file with that agency is 130 West 57th Street, Suite 14A, New York City, United States, 10019. If Columbus has moved, it should update its address with the Division of Corporations.

Because Mr. Ziotto is not a licensed attorney, he cannot appear, sign pleadings, or otherwise defend this action on behalf of Columbus. *See Lattanzio v. COMTA*, 481 F.3d 137, 139

(2d Cir. 2007) ("[A] layperson may not represent a separate legal entity such as a corporation."). A corporation "must appear through licensed counsel." *Id.* The Court does not have discretion in the matter and cannot make an exception for Mr. Ziotto. Consequently, the Court cannot act on the motions he has attempted to file on behalf of Columbus.

Mr. Ziotto is, however, free to contact plaintiffs' attorneys directly, and request that they voluntarily withdraw the Certificate of Default and give Columbus an extension of time to respond to the claims against it.

In order to facilitate the resolution of this issue, it is hereby ORDERED that plaintiffs shall take no further action against defendant Columbus in this action for a period of 30 days, until **October 23, 2023**. It is further ORDERED that if Columbus wishes to appear and defend itself in this action, including by moving to set aside the default (if still necessary) and filing an answer or other response to the Amended Complaint (Dkt. 271), it shall appear through counsel no later than **October 23, 2023**, for that purpose.

The Clerk of Court is respectfully directed to close the motions at Dkts. 688, 691, and 692, and mail a copy of this Order to the Columbus NY Real Estate Inc. at the address provided by Mr. Ziotto:

334 West 85th St., #4D
New York, NY 10024

Dated: New York, New York
September 22, 2023

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge